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17CV18466

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

Lyndsey M. Knighten, an Oregon resident,)	Case No.
)	
Plaintiff,)	
)	COMPLAINT
v.)	
)	
Creditors Collection Service, Inc., an Oregon)	Fee Authority: ORS 21.160
corporation; Mary's Peak Emergency)	DAMAGES: \$ 525,000
Physicians, P.C., an Oregon professional)	
corporation; Morley Thomas, LLC dba The)	
Morley Thomas Law Firm, an Oregon)	CLAIM NOT SUBJECT TO
limited liability corporation; Jessica K.)	MANDATORY ARBITRATION
Meyer, an Oregon resident; and Abbe E.)	
Montgomery, MD, an Oregon resident,)	Jury Trial Requested
)	
Defendants.)	
)	
)	
)	

Plaintiff Lyndsey M. Knighten ("Plaintiff") states her claims as follows:

PARTIES & VENUE

1. Plaintiff Lyndsey M. Knighten is an Oregon resident. On September 27, 2015, she was raped by someone known to her. On September 27, 2015, Plaintiff was treated in the emergency department at the Good Samaritan Regional Medical Center in Corvallis, Oregon. This case arises out of the unlawful collection efforts over a bill for part of that treatment.

2. Defendant Creditors Collection Service, Inc. ("Defendant Collection Service") is an Oregon for-profit corporation with sustained, continuous business activity in Multnomah County, Oregon.

1 3. Defendant Mary's Peak Emergency Physicians, P.C. ("Defendant Mary's
2 Peak") is an Oregon professional corporation with sustained, continuous business activity
3 and a registered agent for service of process in Multnomah County, Oregon.

4 4. Defendant Morley Thomas, LLC dba The Morley Thomas Law Firm
5 ("Defendant Morley Thomas") is an Oregon limited liability corporation with sustained,
6 continuous business activity in Multnomah County, Oregon.

7 5. Jessica K. Meyer ("Defendant Meyer") is an Oregon resident and an active
8 member of the Oregon State Bar, OSB ID No. 053242.

9 6. Abbe E. Montgomery, MD ("Defendant Montgomery") is an Oregon resident
10 and a licensed Oregon physician specializing in emergency medicine.

11 7. Defendant Mary's Peak acted as agent for Defendant Montgomery. Defendant
12 Mary's Peak acts and omissions were done within the course and scope of its agency
13 relationship to Defendant Montgomery.

14 8. Defendant Collection Service acted as agent for Defendant Mary's Peak and
15 Defendant Montgomery. Defendant Collection Service's acts and omissions were done within
16 the course and scope of its agency relationship to Defendant Mary's Peak and Defendant
17 Montgomery.

18 9. Defendant Morley Thomas acted as agent for Defendant Collection Service,
19 Defendant Mary's Peak, and Defendant Montgomery. Defendant Morley Thomas's acts and
20 omissions were done within the course and scope of its agency relationship to Defendant
21 Collection Service, Defendant Mary's Peak, and Defendant Montgomery.

22 10. Defendant Meyer acted as agent for Defendant Morley Thomas, Defendant
23 Collection Service, Defendant Mary's Peak, and Defendant Montgomery. Defendant Meyer's
24 acts and omissions were done within the course and scope of its agency relationship to
25 Defendant Morley Thomas, Defendant Collection Service, Defendant Mary's Peak, and

1 Defendant Montgomery.

2 11. Defendants and each of them acted in concert or pursuant to a common design
3 or scheme in committing the tortious acts and omissions alleged below.

4 12. Defendant Mary's Peak and Defendant Montgomery, knew that they had
5 breached duties owed to Plaintiff and provided substantial assistance and encouragement to
6 Defendant Meyer, Defendant Morley Thomas, and Defendant Collection Service.

7 13. There existed a special relationship between Plaintiff and Defendant
8 Montgomery in that Defendant Montgomery was Plaintiff's treating physician.

9 **FACTS COMMON TO ALL CLAIMS**

10 14. On September 27, 2015, Plaintiff visits the emergency department at the Good
11 Samaritan Regional Medical Center ("Good Samaritan") in Corvallis, Oregon to have a
12 Complete Medical Assessment performed after a sexual assault. OAR 137-084-0001(8).

13 15. Plaintiff indicated to her Eligible Medical Service Provider that she wanted a
14 completed Application Form submitted to the State of Oregon's Sexual Assault Victims'
15 Emergency Medical Response Fund ("SAVE Fund"). OAR 137-084-0010(1).

16 16. Plaintiff is told that she will not have to pay the costs associated with her
17 Complete Medical Examination.

18 17. Good Samaritan submits the Application Form along with bills to the SAVE
19 Fund for payment.

20 18. Good Samaritan does not submit bills for Defendant Montgomery to the
21 SAVE Fund.

22 19. Defendant Montgomery and Defendant Mary's Peak do not submit Defendant
23 Montgomery's bills to the SAVE Fund.

24 20. Because Plaintiff completed the application form, and otherwise complied
25 with Oregon laws and regulations, Oregon law required Defendant Montgomery to submit

her bills to the SAVE Fund before billing Plaintiff for her Medical Examination. ORS 147.397(4).

21. On May 9, 2016, Plaintiff receives a collections letter from Defendant Collection Service for a debt owed to Defendant Mary's Peak in the amount of \$281.25.

22. On June 1, 2016, Defendant Collection Service filed a complaint in Circuit Court for Benton County, Small Claims Department, claiming \$365.17 for services rendered by Mary's Peak ER Physicians on September 27, 2015, along with fees and costs.

23. On August 12, 2016, a default judgment was entered against Plaintiff in the amount of \$465.17.

24. On August 17, 2016, Plaintiff receives a collections letter from Defendant Collection Service for a debt owed to Defendant Mary's Peak in the amount of \$465.74.

25. Plaintiff communicates with Defendant Collection Service, telling them that she was a sexual assault victim.

26. Plaintiff applies to the Crime Victims' Compensation Program to have the Defendant Mary's Peak debt paid.

27. On February 23, 2017, Defendant Meyer files a Writ of Garnishment in the Circuit Court for the County of Benton.

28. Plaintiff and Plaintiff's sister make repeated attempts to speak with Defendant Meyer to explain that Plaintiff is a sexual assault victim and that the debt is not owned. Defendant Meyer refuses to speak with them.

29. Defendant Meyer attaches the garnishment to Plaintiff's bank account. To prevent wiping out Plaintiff's entire checking account balance, Plaintiff's sister pays the amount in full.

FIRST CLAIM FOR RELIEF

INVASION OF PRIVACY/INTRUSION UPON SECLUSION

30. Plaintiff realleges paragraphs 1 through 29 as if fully set forth herein.

31. Defendants' conduct intentionally intruded on Plaintiff's solitude, seclusion and privacy.

32. Defendants' conduct was highly offensive to Plaintiff and would be highly offensive to a reasonable person.

33. Defendants acted with malice or willful intent to injure plaintiff.

34. Defendants' conduct caused Plaintiff to suffer damages and continues to suffer damages including invasion of privacy, intrusion of her solitude and seclusion, emotional distress, frustration, mental anguish, pain and suffering and interference with normal and usual activities for which she seeks damages in an amount to be determined by the jury, not to exceed \$75,000.

SECOND CLAIM FOR RELIEF

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

35. Plaintiff realleges paragraphs 1 through 29 as if fully set forth herein.

36. Defendants intended to inflict severe emotional distress upon Plaintiff;

37. Defendants' acts caused Plaintiff severe emotional distress; and

38. Defendants' acts exceeded the reasonable limit of social toleration.

39. Defendants' conduct caused Plaintiff to suffer damages and continues to suffer damages including invasion of privacy, intrusion of her solitude and seclusion, emotional distress, frustration, mental anguish, pain and suffering and interference with normal and usual activities for which she seeks damages in an amount to be determined by the jury, not to exceed \$75,000.

THIRD CLAIM FOR RELIEF

NEGLIGENCE

40. Plaintiff realleges paragraphs 1 through 29 as if fully set forth herein.

41. Defendants' conduct caused a foreseeable risk of harm by failing to seek payment under the SAVE Fund, by demanding payment from Plaintiff notwithstanding her request that the bill be submitted for payment under the SAVE Fund, by filing suit against Plaintiff notwithstanding her request that the bill be submitted for payment under the SAVE Fund, by issuing a writ of garnishment notwithstanding Plaintiff's request that the bill be submitted for payment under the SAVE Fund, and by refusing to speak with Plaintiff or her sister in response to their request that the bill be submitted for payment under the SAVE Fund.

42. The risk is to an interest of a kind that the law protects against negligent invasion.

43. Defendants' conduct was unreasonable in light of the risk.

44. Defendants' conduct was a cause of Plaintiff's harm.

45. Plaintiff was within the class of persons and plaintiff's injury was within the general type of potential incidents and injuries that made Defendants' conduct negligent.

46. Defendants' conduct caused Plaintiff to suffer damages and continues to suffer damages including invasion of privacy, intrusion of her solitude and seclusion, emotional distress, frustration, mental anguish, pain and suffering and interference with normal and usual activities for which she seeks damages in an amount to be determined by the jury, not to exceed \$75,000.

FOURTH CLAIM FOR RELIEF

GROSS NEGLIGENCE

47. Plaintiff realleges paragraphs 1 through 29 as if fully set forth herein.

48. Defendants' conduct evinced a conscious indifference to or reckless disregard of the rights of others, including Plaintiff.

49. Defendants' conduct caused Plaintiff to suffer damages and continues to suffer damages including invasion of privacy, intrusion of her solitude and seclusion, emotional distress, frustration, mental anguish, pain and suffering and interference with normal and usual activities for which she seeks damages in an amount to be determined by the jury, not to exceed \$75,000.

FIFTH CLAIM FOR RELIEF

UNLAWFUL TRADE PRACTICES ACT

(ORS 646.605 et seq.)

50. Plaintiff realleges paragraphs 1 through 29 as if fully set forth herein.

51. The services at issue in this case were obtained primarily for personal, family or household purposes.

52. Defendants, acting on their behalf, acting within the course and scope of their agency, and/or acting in concert, and acting in the course of their respective business, vocation or occupation willfully violated the Unlawful Trade Practices Act in the following ways:

- a. Making false or misleading representations concerning credit availability or the nature of the transaction or obligation incurred, in violation of ORS 646.608(1)(k); and
- b. Making false or misleading representations of fact concerning the offering price of, or the person's cost for real estate, goods or services, in violation of ORS 646.608(1)(s).

53. As a result of Defendants' conduct, Plaintiff suffered an ascertainable loss in the form of money paid by her sister to Defendants. Defendants' conduct caused Plaintiff to

1 suffer damages and continues to suffer damages including invasion of privacy, intrusion of
2 her solitude and seclusion, emotional distress, frustration, mental anguish, pain and suffering
3 and interference with normal and usual activities for which she seeks damages in an amount
4 to be determined by the jury, not to exceed \$75,000.

5 54. Plaintiff is entitled to recover her reasonable attorney fees pursuant to ORS
6 646.638.

7 **SIXTH CLAIM FOR RELIEF**

8 **UNLAWFUL DEBT COLLECTION PRACTICES ACT**

9 **(ORS 646.639 et seq.)**

10 55. Plaintiff realleges paragraphs 1 through 29 as if fully set forth herein.

11 56. Plaintiff is a "consumer" because she is a natural person who purchases or
12 acquired services or credit for personal, family or household purposes.

13 57. This action involves a "consumer transaction" because it involves transaction
14 between a consumer and a person who sells services to consumers.

15 58. This action involves a "debt" because it involves an obligation or alleged
16 obligation arising out of a consumer transaction.

17 59. Defendants are "commercial creditors" because they are persons who in the
18 ordinary course of business engage in consumer transactions.

19 60. Defendants are "debt collectors" because they are persons who by any direct
20 or indirect action, conduct or practice, enforce or attempt to enforce an obligation that is
21 owed or due to any commercial creditor, or alleged to be owed or due to any commercial
22 creditor, by a consumer as a result of a consumer transaction.

23 61. Defendants, acting on their behalf, acting within the course and scope of their
24 agency, and/or acting in concert, and collecting or attempting to collect a debt, willfully
25 violated the Unlawful Debt Collection Practices Act by attempting to enforce a right or

1 remedy with knowledge or reason to know that the right or remedy does not exist, or threaten
2 to take any action which the debt collector in the regular course of business does not take, in
3 violation of ORS 646.639(2)(k).

4 62. As a result of Defendants' conduct, Plaintiff was injured in the form of money
5 paid by her sister to Defendants. Defendants' conduct caused Plaintiff to suffer damages and
6 continues to suffer damages including money paid by her sister to Defendants, invasion of
7 privacy, intrusion of her solitude and seclusion, emotional distress, frustration, mental
8 anguish, pain and suffering and interference with normal and usual activities for which she
9 seeks damages in an amount to be determined by the jury, not to exceed \$75,000.

10 63. Plaintiff is entitled to recover her reasonable attorney fees pursuant to ORS
11 646.641.

12 **SEVENTH CLAIM FOR RELIEF**

13 **FAIR DEBT COLLECTION PRACTICES ACT**

14 **(15 U.S.C. § 1692 et seq.)**

15 64. Plaintiff realleges paragraphs 1 through 29 as if fully set forth herein.

16 65. Plaintiffs are "consumers" as defined by the Fair Debt Collection Practices
17 Act ("FDCPA"), 15 U.S.C. § 1692a.

18 66. Defendants Creditors Collection Service, Inc., Morley Thomas, LLC dba The
19 Morley Thomas Law Firm, and Jessica K. Meyer are "debt collectors" within the meaning of
20 15 U.S.C. § 1692a.

21 67. The alleged debt at issue is a "debt" within the meaning of 15 U.S.C. § 1692a.

22 68. Defendants Creditors Collection Service, Inc., Morley Thomas, LLC dba The
23 Morley Thomas Law Firm, and Jessica K. Meyer violated the Fair Debt Collection Practices
24 Act in the following ways:

- a. Engaging in conduct, the natural consequence of which is to harass, oppress or abuse any person in connection with the collection of a debt, in violation of 15 U.S.C. § 1692d;
- b. The use of deceptive means to collect or attempt to collect any debt, in violation of 15 U.S.C. § 1692e;
- c. Using unfair or unconscionable means to collect or attempt to collect any debt, in violation of 15 U.S.C. § 1692f.

69. As a result of Defendants Creditors Collection Service, Inc., Morley Thomas, LLC dba The Morley Thomas Law Firm, and Jessica K. Meyer's violations of the Fair Debt Collection Practices Act, Plaintiff was damaged in the form of money paid by her sister to Defendants. Defendants' conduct caused Plaintiff to suffer damages and continues to suffer damages including invasion of privacy, intrusion of her solitude and seclusion, emotional distress, frustration, mental anguish, pain and suffering and interference with normal and usual activities for which she seeks damages in an amount to be determined by the jury, not to exceed \$75,000.

70. Plaintiffs are entitled to statutory damages of \$1,000, pursuant to 15 U.S.C. § 1692k.

71. Plaintiffs are entitled to their reasonable attorney fees, pursuant to 15 U.S.C. § 1692k.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff Lyndsey M. Knighten prays for Judgment against Creditors Collection Service, Inc., Mary's Peak Emergency Physicians, P.C., Morley Thomas, LLC dba The Morley Thomas Law Firm, Jessica K. Meyer, and Abbe E. Montgomery, MD:

1. On Plaintiff's First Claim for Relief:

1 a. Damages in an amount to be determined by the jury, not to exceed
2 \$75,000

3 b. Costs and disbursements incurred herein.

4 2. On Plaintiff's Second Claim for Relief:

5 a. Damages in an amount to be determined by the jury, not to exceed
6 \$75,000

7 b. Costs and disbursements incurred herein.

8 3. On Plaintiff's Third Claim for Relief:

9 a. Damages in an amount to be determined by the jury, not to exceed
10 \$75,000

11 b. Costs and disbursements incurred herein.

12 4. On Plaintiff's Fourth Claim for Relief:

13 a. Damages in an amount to be determined by the jury, not to exceed
14 \$75,000

15 b. Costs and disbursements incurred herein.

16 5. On Plaintiff's Fifth Claim for Relief:

17 a. Damages in an amount to be determined by the jury, not to exceed
18 \$75,000

19 b. Attorney fees, costs and disbursements incurred herein.

20 6. On Plaintiff's Sixth Claim for Relief:

21 a. Damages in an amount to be determined by the jury, not to exceed
22 \$75,000

23 b. Attorney fees, costs and disbursements incurred herein.

24 7. On Plaintiff's Seventh Claim for Relief:

25 a. Damages in an amount to be determined by the jury, not to exceed

1 \$75,000

2 b. Attorney fees, costs and disbursements incurred herein.

3 8. Trial by jury is requested.

4 9. Plaintiff hereby gives notice that she intends to seek leave to amend the
5 complaint to allege entitlement to recover punitive damages on all applicable claims for
6 relief.

7 DATED: May 5, 2017.

8 BAXTER & BAXTER, LLP

9 By: /s/ Justin M. Baxter

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